

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Mr. Gregory Cuenca
dba Millenium Waste Oil
8011 Corbin Avenue
Winnetka, CA 91306

EPA ID No. CAL000248373

Respondent.

Docket HWCA 20030373

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control
(Department) and Gregory Cuenca, dba Millenium Waste Oil,
(Respondent) enter into this Consent Order and agree as
follows:

1. Respondent transports hazardous waste.
2. The Department inspected the Respondent on
August 21, 2003.
3. The Department alleges the following violation:
 - 3.1 Respondent violated California Code of
Regulations, title 22, section 66263.17, subsection (a) in
that between May 1, 2003 and May 6, 2003 Respondent
transported hazardous waste without a registration certificate
from the Department.
4. A dispute exists regarding the alleged
violation.

1 5. The parties wish to avoid the expense of
2 litigation and to ensure prompt compliance.

3 6. Jurisdiction exists pursuant to Health and
4 Safety Code section 25187.

5 7. Respondent waives any right to a hearing in this
6 matter.

7 8. This Consent Order shall constitute full
8 settlement of the violation alleged above, but does not limit
9 the Department from taking appropriate enforcement action
10 concerning other violations.

11 9. Respondent admits the violation.

12 10. Respondent shall comply with the following:

13 10.1. Respondent has corrected the violation cited
14 above. Respondent shall operate hereafter in a manner that
15 shall prevent recurrences of the violation cited herein.

16 10.2. Submittals: All submittals from Respondent
17 pursuant to this Consent Order shall be sent to:

18 Robert Kou, Unit Chief
19 Statewide Compliance Division
20 Department of Toxic Substances Control
21 1011 North Grandview Avenue
22 Glendale, California 91201

23 10.3. Communications: All approvals and decisions
24 of the Department made regarding such submittals and
25 notifications shall be communicated to Respondent in writing
26 by a Branch Chief, Department of Toxic Substances Control, or
27 his/her designee. No informal advice, guidance, suggestions,
28 or comments by the Department regarding reports, plans,
specifications, schedules, or any other writings by Respondent

1 shall be construed to relieve Respondent of its obligation to
2 obtain such formal approvals as may be required.

3 10.4. Department Review and Approval: If the
4 Department determines that any report, plan, schedule, or
5 other document submitted for approval pursuant to this Consent
6 Order fails to comply with the Order or fails to protect
7 public health or safety or the environment, the Department may
8 return the document to Respondent with recommended changes and
9 a date by which Respondent must submit to the Department a
10 revised document incorporating the recommended changes.

11 10.5. Compliance with Applicable Laws: Respondent
12 shall carry out this Order in compliance with all local,
13 State, and federal requirements, including but not limited to
14 requirements to obtain permits and to assure worker safety.

15 10.6. Endangerment during Implementation: In the
16 event that the Department determines that any circumstances or
17 activity (whether or not pursued in compliance with this
18 Consent Order) are creating an imminent or substantial
19 endangerment to the health or welfare of people on the site or
20 in the surrounding area or to the environment, the Department
21 may order Respondent to stop further implementation for such
22 period of time as needed to abate the endangerment. Any
23 deadline in this Consent Order directly affected by a Stop
24 Work Order under this section shall be extended for the term
25 of such Stop Work Order.

26 10.7. Liability: Nothing in this Consent Order
27 shall constitute or be construed as a satisfaction or release
28 from liability for any conditions or claims arising as a

1 result of past, current, or future operations of Respondent,
2 except as provided in this Consent Order. Notwithstanding
3 compliance with the terms of this Consent Order, Respondent
4 may be required to take further actions as are necessary to
5 protect public health or welfare or the environment.

6 10.8. Site Access: Access to the Site shall be
7 provided at all reasonable times to employees, contractors,
8 and consultants of the Department, and any agency having
9 jurisdiction. Nothing in this Consent Order is intended to
10 limit in any way the right of entry or inspection that any
11 agency may otherwise have by operation of any law. The
12 Department and its authorized representatives may enter and
13 move freely about all property at the Site at all reasonable
14 times for purposes including but not limited to: inspecting
15 records, operating logs, and contracts relating to the Site;
16 reviewing the progress of Respondent in carrying out the terms
17 of this Consent Order; and conducting such tests as the
18 Department may deem necessary. Respondent shall permit such
19 persons to inspect and copy all records, documents, and other
20 writings, including all sampling and monitoring data, in any
21 way pertaining to work undertaken pursuant to this Consent
22 Order.

23 10.9. Sampling, Data, and Document Availability:
24 Respondent shall permit the Department and its authorized
25 representatives to inspect and copy all sampling, testing,
26 monitoring, and other data generated by Respondent or on
27 Respondent's behalf in any way pertaining to work undertaken
28 pursuant to this Consent Order. Respondent shall allow the

1 Department and its authorized representatives to take
2 duplicates of any samples collected by Respondent pursuant to
3 this Consent Order. Respondent shall maintain a central
4 depository of the data, reports, and other documents prepared
5 pursuant to this Consent Order. All such data, reports, and
6 other documents shall be preserved by Respondent for a minimum
7 of six years after the conclusion of all activities under this
8 Consent Order. If the Department requests that some or all of
9 these documents be preserved for a longer period of time,
10 Respondent shall either comply with that request, deliver the
11 documents to the Department, or permit the Department to copy
12 the documents prior to destruction. Respondent shall notify
13 the Department in writing at least six months prior to
14 destroying any documents prepared pursuant to this Consent
15 Order.

16 10.10. Government Liabilities: The State of
17 California shall not be liable for injuries or damages to
18 persons or property resulting from acts or omissions by
19 Respondent or related parties specified in paragraph 12.3, in
20 carrying out activities pursuant to this Consent Order, nor
21 shall the State of California be held as a party to any
22 contract entered into by Respondent or its agents in carrying
23 out activities pursuant to this Consent Order.

24 10.11. Incorporation of Plans and Reports: All
25 plans, schedules, and reports that require Department approval
26 and are submitted by Respondent pursuant to this Consent Order
27 are incorporated in this Consent Order upon approval by the
28 Department.

1 PAYMENTS

2 11. Respondent shall pay the Department a total sum
3 of \$3,500.00 in penaltalies. The payments shall be paid in
4 three (3) installments as follows: the first two installments
5 for \$1,000 each; and the third installment for \$1,500.

6 Payments are due and payable on February 1, 2004, and May 1,
7 2004, and August 1, 2004, respectively. Any installment
8 payment which is received by the Department after the 15th day
9 of the month in which it is due is subject to a penalty in the
10 amount of \$750.00, which penalty shall be paid by Respondent
11 no later than the due date of the next installment payment.

12 If Respondent is late in making two (2) payments, then the
13 Department, at its option, may declare the entire balance of
14 the outstanding payments immediately due and owing. If
15 Respondent fails to make payments as provided above,
16 Respondent agrees to pay interest at the rate established
17 pursuant to Health and Safety Code section 25360.1 and to pay
18 all costs incurred by the Department in pursuing collection,
19 including attorney's fees.

20 Respondent's check shall be made payable to Department of
21 Toxic Substances Control, and shall be delivered to:

22 Department of Toxic Substances Control
23 Accounting Office
24 1001 I Street
25 P. O. Box 806
26 Sacramento, California 95812-0806

27 A photocopy of the check shall be sent:

28 Robert Kou, Unit Chief
Statwide Compliance Division
Department of Toxics Substances Control
1011 North Grandview Avenue
Glendale, California 91201

OTHER PROVISIONS

1 12.1. Additional Enforcement Actions: By agreeing
2 to this Consent Order, the Department does not waive the right
3 to take further enforcement actions, except to the extent
4 provided in this Consent Order.

5 12.2. Penalties for Noncompliance: Failure to
6 comply with the terms of this Consent Order may subject
7 Respondent to civil penalties and/or punitive damages for any
8 costs incurred by the Department or other government agencies
9 as a result of such failure, as provided by Health and Safety
10 Code section 25188 and other applicable provisions of law.

11 12.3. Parties Bound: This Consent Order shall
12 apply to and be binding upon Respondent and its officers,
13 directors, agents, receivers, trustees, employees,
14 contractors, consultants, successors, and assignees, including
15 but not limited to individuals, partners, and subsidiary and
16 parent corporations, and upon the Department and any successor
17 agency that may have responsibility for and jurisdiction over
18 the subject matter of this Consent Order.

19 12.4. Effective Date: The effective date of this
20 Consent Order is the date it is signed by the Department.

21 12.5. Integration: This agreement constitutes the
22 entire agreement between the parties and may not be amended,
23 supplemented, or modified, except as provided in this
24 agreement.

25 Notices under this paragraph are subject to paragraph 10.2.

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7 Dated: 11/21/2003

8 ORIGINAL SIGNED BY RESPONDENT

9 Signature of Respondent's
10 Representative

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12 ORIGINAL SIGNED BY GREGORY CUENCA

13 Typed or Printed Name and
14 Title of Respondent's
Representative

15 Dated: 12/4/2003

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17 ORIGINAL SIGNED BY ROBERT KOU

18 Robert Kou, Unit Chief
19 Department of Toxic Substances
20 Control
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